

Montana Water Court
PO Box 1389
Bozeman, MT 59771-1389
1-800-624-3270
(406) 586-4364
watercourt@mt.gov

FILED
04/25/2023
Sara Calkins
CLERK
Montana Water Court
STATE OF MONTANA
By: D'Ann CIGLER
43B-0685-R-2022
Lambert, Kathryn
7.00

MONTANA WATER COURT, YELLOWSTONE DIVISION
YELLOWSTONE RIVER ABOVE AND INCLUDING BRIDGER CREEK BASIN
BASIN 43B
PRELIMINARY DECREE

CLAIMANT: Rock Creek Ranch I Ltd.

CASE 43B-0685-R-2022
43B 192236-00

OBJECTORS: State of Montana Board of Land Commissioners;
United States of America (Bureau of Reclamation)

NOTICE OF FILING OF MASTER'S REPORT

This Master's Report was filed with the Montana Water Court on the above stamped date. Please review this report carefully.

You may file a written objection to this Master's Report within **10 days** of the stamped date if you disagree or find errors with the Master's findings of fact, conclusions of law, or recommendations. Rule 23, W.R.Adj.R. If the Master's Report was mailed to you, the Montana Rules of Civil Procedure allow an additional 3 days to be added to the 10-day objection period. Rule 6(d), M.R.Civ.P. If you file an objection, you must mail a copy of the objection to all parties on the service list found at the end of the Master's Report. The original objection and a certificate of mailing to all parties on the service list must be filed with the Water Court.

If you do not file a timely objection, the Water Court will conclude that you agree with the content of this Master's Report.

MASTER'S REPORT

The State of Montana Board of Land Commissioners and the United States of America (Bureau of Reclamation) each objected to this claim. On March 13, 2023 the parties filed a Stipulation To Resolve Objections. The Stipulation is viewable in the Court's FullCourt Enterprise case management system.

APPLICABLE LAW

A properly filed Statement of Claim for Existing Water Right is prima facie proof of its content pursuant to section 85-2-227, MCA. This prima facie proof may be contradicted and overcome by other evidence that proves, by a preponderance of the evidence, that the elements of the claim do not accurately reflect the beneficial use of the water right as it existed prior to July 1, 1973. This is the burden of proof for every assertion that a claim is incorrect including for claimants objecting to their own claims. Rule 19, W.R.Adj.R.

FINDINGS OF FACT

1. The Preliminary Decree states that the owner is Rock Creek Ranch I Ltd. The Montana State Board of Land Commissioners should be added as a co-owner.
2. The Preliminary Decree states that the maximum acres irrigated is 392.00 and the place of use is:

<u>ACRES</u>	<u>GOVT LOT</u>	<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
22.00	1		21	1S	12E	PARK
90.00		S2SE	16	1S	12E	PARK
40.00		SWSE	21	1S	12E	PARK
80.00		N2SE	21	1S	12E	PARK
<u>160.00</u>		NE	21	1S	12E	PARK
392.00						

The maximum acres irrigated should be 315.00 and the place of use should be:

<u>ACRES</u>	<u>GOVT LOT</u>	<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
244.00		E2	21	1S	12E	PARK
12.00		E2E2NW	21	1S	12E	PARK
4.00	1	W2NWNW	22	1S	12E	PARK
53.00		S2SE	16	1S	12E	PARK
<u>2.00</u>		SESESW	16	1S	12E	PARK
315.00						

CONCLUSION OF LAW

The settlement filed by the parties is sufficient to contradict and overcome the prima facie claim.

RECOMMENDATIONS

Based upon the above Findings of Fact and Conclusion of Law, this Master recommends that the Court make the changes specified in the Findings of Fact to correct the Preliminary Decree for this Basin. A Post Decree Abstract of Water Right Claim is served with this Report to confirm the recommended changes have been made in the state's centralized record system.

ELECTRONICALLY SIGNED AND DATED BELOW

Service Via Email:

Aislinn Brown
Caitlin Buzzas
Montana Attorney General
Agency Legal Services Bureau
PO Box 201440
Helena, MT 59620-1440
(406) 444-5850
CaitlinBuzzas@mt.gov
rochell.standish@mt.gov
Aislinn.brown@mt.gov
BLCWaterCourt@mt.gov

Jennifer Najjar, Trial Attorney
Natural Resources Section, ENRD
US Department of Justice
PO Box 7611
Washington, D.C. 20044-7611
Phone (202) 598-9032
Fax (202) 305-0506
jennifer.najjar@usdoj.gov
MontanaBasins.ENRD@USDOJ.GOV

Madeline M. Clarke
Renee L. Coppock
Crowley Fleck PLLP
PO Box 2529
Billings, MT 59103-2529
(406) 252-3441
mclarke@crowleyfleck.com
rcoppock@crowleyfleck.com
acowen@crowleyfleck.com

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
YELLOWSTONE RIVER, ABOVE & INCLUDING BRIDGER CREEK
BASIN 43B

Water Right Number: 43B 192236-00 STATEMENT OF CLAIM
Version: 5 -- POST DECREE
Status: ACTIVE

Owners: MONTANA STATE BOARD OF LAND COMMISSIONERS
TRUST LAND MANAGEMENT DIVISION
PO BOX 201601
HELENA, MT 59620 1601

ROCK CREEK RANCH I LTD
100 WAUGH DR, SUITE 400
HOUSTON, TX 77007 5962

Priority Date: JUNE 29, 1973
Type of Historical Right: FILED
Purpose (use): IRRIGATION
Irrigation Type: SPRINKLER/FLOOD/FURROW
Flow Rate: 5.00 CFS
Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.
Climatic Area: 3 - MODERATE
Maximum Acres: 315.00
Source Name: YELLOWSTONE RIVER
Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SESWNW	22	1S	12E	PARK

Period of Diversion: MAY 15 TO SEPTEMBER 15
Diversion Means: PUMP/HEADGATE W/DITCH OR PIPELINE
Period of Use: MAY 15 TO SEPTEMBER 15

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	244.00		E2	21	1S	12E	PARK
2	12.00		E2E2NW	21	1S	12E	PARK
3	4.00	1	W2NWNW	22	1S	12E	PARK
4	53.00		S2SE	16	1S	12E	PARK
5	2.00		SESESW	16	1S	12E	PARK
Total:	315.00						

Remarks:

AUTHORIZATION TO CHANGE POINT OF DIVERSION COMPLETED 04/26/1990. FILE REFLECTS RIGHT AS IT EXISTED PRIOR TO JULY, 1973. APPROVED CHANGES WILL BE RECORDED AFTER FINAL DECREE.